IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3104 of 2007()

CC.106/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD
CRIME NO.446/06 OF VADANAPPILLY POLICE STATION

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PETITIONER: ACCUSED 2 TO 5

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1. AYSHABI, AGED 65 YEARS,
W/O.ABDUL REHIMAN, RAIMARAIKKAR HOUSE,
VADANAPPILLY AMSOM DESOM, CHAVAKKAD TALUK,
THRISSUR DISTRICT.

2. ABBAS, AGED 40 YEARS,
S/O.ABDUL RAHIMAN, RAIMARAIKKAR HOUSE,
VADANAPPILLY AMSOM DESOM, CHAVAKKAD TALUK,
THRISSUR DISTRICT.

3. RAMLA, AGED 35 YEARS, D/O.ABDUL RAHIMAN,
W/O.BASHEER, RAIMARAIKKAR HOUSE, VADANAPPILLY
AMSOM, DESOM, CHAVAKKAD TALUK, THRISSUR
(RESIDING AT UNIKANDATH HOUSE, ANTHIKKAD P.O.,
THRISSUR).

4. RABIA, AGED 30 YEARS, D/O.ABDUL RAHIMAN,
RAIMARAIKKAR HOUSE, VADANAPPILLY AMSOM DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS:

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1. STATE OF KERALA/S.I. OF POLICE,
VADANAPPILLY POLICE STATION, THRISSUR DISTRICT),
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SHIMNA, D/O.HAMEED, AGED 25 YEARS,
EDAKKAZHIYOOR AMSOM DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3104 of 2007

Dated this the 9th day of October, 2007

O R D E R

The petitioners face allegations for offences punishable, inter alia, under Section 498 A I.P.C. A private complaint was filed by the defacto complainant. The same was referred to the police under Section 156(3) Cr.P.C. Investigation was completed. Final report was filed. Cognizance has been taken. The petitioners have appeared before the learned Magistrate through counsel. At this stage, the petitioners have rushed to this Court with the prayer that the proceedings may be quashed.

2. After discussions at the bar, the learned counsel for the petitioners only prays that the petitioners may be permitted to withdraw this petition without any fetter on the right of the petitioners to claim discharge under Section 239 Cr.P.C before the learned Magistrate. Request is accepted. This Crl.M.C is, in these circumstances, dismissed as withdrawn. Needles to say that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioners to claim discharge under Section 239 Cr.P.C before the learned Magistrate. Such claim must be considered on merits and appropriate decision be taken by the learned Magistrate.

3. The learned counsel for the petitioners submits that if unnecessary ritualistic insistence on personal appearance of the petitioners were made by the learned Magistrate, that would cause great hardship and loss to the petitioners. The petitioners can appear and that they may be enlarged on bail. Thereafter their personal appearance need not be insisted by the learned Magistrate until hearing is done on the question of discharge/charge under Section 239/240 Cr.P.C. The petitioners can be permitted to appear through counsel until a decision on that aspect is taken by the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-